

ASSEMBLY BILL

No. 54

Introduced by Assembly Member Solorio

December 6, 2010

An act to amend Sections 56375 and 56430 of the Government Code, and to add Section 116760.65 to the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

AB 54, as introduced, Solorio. Drinking water.

Existing law, the California Safe Drinking Water Act, requires the State Department of Public Health to administer provisions relating to the regulation of drinking water to protect public health, including, but not limited to, conducting research, studies, and demonstration programs relating to the provision of a dependable, safe supply of drinking water, enforcing the federal Safe Drinking Water Act, adoption of enforcement regulations, and conducting studies and investigations to assess the quality of water in domestic water supplies.

Existing law establishes the Safe Drinking Water State Revolving Fund, continuously appropriated to the department for the provision of grants and revolving fund loans to provide for the design and construction of projects for public water systems that will enable suppliers to meet safe drinking water standards. Existing law requires the department to establish criteria to be met for projects to be eligible for consideration for this funding.

This bill would allow the department to issue a letter of no prejudice, as defined, to a public water system that is a lead applicant for a project that may be funded by the Safe Drinking Water Revolving Fund and

would make expenditures related to the project reimbursable in specified circumstances.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, sets forth the powers and duties of a local agency formation commission, including, among others, the powers to review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the commission.

This bill would additionally authorize the commission to review and approve or disapprove, at the commission's discretion, the consolidation of territory within the jurisdiction of a mutual water company into the jurisdiction of a city as a special district that operates a public water system, with the consent of the respective city and mutual water company.

Under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, each local agency formation commission is required to develop and determine the sphere of influence of each local governmental agency within the county and enact policies designed to promote the logical and orderly development of areas within the sphere of influence. In order to prepare and update spheres of influence, the commission is required to conduct a service review, including the review of growth and population projections for the affected area, present and planned capacity of public facilities and adequacy of public services, financial ability of agencies to provide services, the status of, and opportunities for, shared facilities, accountability for community service needs, and any other matter related to effective or efficient service delivery, as required by commission policy.

This bill would authorize the commission to include in the service review, a review of whether the available drinking water sources within the area of review comply with safe drinking water standards.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Californians rely on a broad diversity of public and private
- 4 organizations to deliver clean and safe drinking water to their home

1 water taps. Regardless of the form of the organization that operates
2 a public water system, these organizations provide a public service
3 that remains one of the core duties of the people's government.

4 (b) While the state's goal is to ensure clean and safe drinking
5 water, California's drinking water quality has deteriorated and
6 some public water systems continue to suffer poor water quality
7 that are inconsistent with safe drinking water standards.

8 (c) The state provides funding to public water systems to
9 improve drinking water quality through the Safe Drinking Water
10 Revolving Fund, but demand far exceeds the available funding.
11 The United States Environmental Protection Agency's Drinking
12 Water Infrastructure Needs Survey and Assessment, which was
13 performed in 2007, State Department of Public Health estimates
14 that the 20-year drinking water infrastructure need for California
15 is \$39 billion. Funding for such projects, however, for 1997–2008
16 totaled only 1.2 billion.

17 (d) It is the intent of the Legislature to enact legislation that
18 would impose consistent fines and penalties on public water
19 systems across the state to ensure compliance with safe drinking
20 water standards.

21 SEC. 2. Section 56375 of the Government Code is amended
22 to read:

23 56375. The commission shall have all of the following powers
24 and duties subject to any limitations upon its jurisdiction set forth
25 in this part:

26 (a) (1) To review and approve or disapprove with or without
27 amendment, wholly, partially, or conditionally, proposals for
28 changes of organization or reorganization, consistent with written
29 policies, procedures, and guidelines adopted by the commission.

30 (2) The commission may initiate proposals by resolution of
31 application for any of the following:

32 (A) The consolidation of a district, as defined in Section 56036.

33 (B) The dissolution of a district.

34 (C) A merger.

35 (D) The establishment of a subsidiary district.

36 (E) The formation of a new district or districts.

37 (F) A reorganization that includes any of the changes specified
38 in subparagraph (A), (B), (C), (D), or (E).

39 (3) A commission may initiate a proposal described in paragraph

40 (2) only if that change of organization or reorganization is

1 consistent with a recommendation or conclusion of a study
2 prepared pursuant to Section 56378, 56425, or 56430, and the
3 commission makes the determinations specified in subdivision (b)
4 of Section 56881.

5 (4) A commission shall not disapprove an annexation to a city,
6 initiated by resolution, of contiguous territory that the commission
7 finds is any of the following:

8 (A) Surrounded or substantially surrounded by the city to which
9 the annexation is proposed or by that city and a county boundary
10 or the Pacific Ocean if the territory to be annexed is substantially
11 developed or developing, is not prime agricultural land as defined
12 in Section 56064, is designated for urban growth by the general
13 plan of the annexing city, and is not within the sphere of influence
14 of another city.

15 (B) Located within an urban service area that has been delineated
16 and adopted by a commission, which is not prime agricultural land,
17 as defined by Section 56064, and is designated for urban growth
18 by the general plan of the annexing city.

19 (C) An annexation or reorganization of unincorporated islands
20 meeting the requirements of Section 56375.3.

21 (5) As a condition to the annexation of an area that is
22 surrounded, or substantially surrounded, by the city to which the
23 annexation is proposed, the commission may require, where
24 consistent with the purposes of this division, that the annexation
25 include the entire island of surrounded, or substantially surrounded,
26 territory.

27 (6) A commission shall not impose any conditions that would
28 directly regulate land use density or intensity, property
29 development, or subdivision requirements.

30 (7) The decision of the commission with regard to a proposal
31 to annex territory to a city shall be based upon the general plan
32 and rezoning of the city. When the development purposes are not
33 made known to the annexing city, the annexation shall be reviewed
34 on the basis of the adopted plans and policies of the annexing city
35 or county. A commission shall require, as a condition to
36 annexation, that a city prezone the territory to be annexed or present
37 evidence satisfactory to the commission that the existing
38 development entitlements on the territory are vested or are already
39 at build-out, and are consistent with the city's general plan.

1 However, the commission shall not specify how, or in what
2 manner, the territory shall be prezoned.

3 (b) With regard to a proposal for annexation or detachment of
4 territory to, or from, a city or district or with regard to a proposal
5 for reorganization that includes annexation or detachment, to
6 determine whether territory proposed for annexation or detachment,
7 as described in its resolution approving the annexation, detachment,
8 or reorganization, is inhabited or uninhabited.

9 (c) With regard to a proposal for consolidation of two or more
10 cities or districts, to determine which city or district shall be the
11 consolidated successor city or district.

12 (d) To approve the annexation of unincorporated, noncontiguous
13 territory, subject to the limitations of Section 56742, located in the
14 same county as that in which the city is located, and that is owned
15 by a city and used for municipal purposes and to authorize the
16 annexation of the territory without notice and hearing.

17 (e) To approve the annexation of unincorporated territory
18 consistent with the planned and probable use of the property based
19 upon the review of general plan and prezoning designations. No
20 subsequent change may be made to the general plan for the annexed
21 territory or zoning that is not in conformance to the prezoning
22 designations for a period of two years after the completion of the
23 annexation, unless the legislative body for the city makes a finding
24 at a public hearing that a substantial change has occurred in
25 circumstances that necessitate a departure from the prezoning in
26 the application to the commission.

27 (f) With respect to the incorporation of a new city or the
28 formation of a new special district, to determine the number of
29 registered voters residing within the proposed city or special district
30 or, for a landowner-voter special district, the number of owners
31 of land and the assessed value of their land within the territory
32 proposed to be included in the new special district. The number
33 of registered voters shall be calculated as of the time of the last
34 report of voter registration by the county elections official to the
35 Secretary of State prior to the date the first signature was affixed
36 to the petition. The executive officer shall notify the petitioners of
37 the number of registered voters resulting from this calculation.
38 The assessed value of the land within the territory proposed to be
39 included in a new landowner-voter special district shall be
40 calculated as shown on the last equalized assessment roll.

1 (g) To adopt written procedures for the evaluation of proposals,
2 including written definitions consistent with existing state law.
3 The commission may adopt standards for any of the factors
4 enumerated in Section 56668. Any standards adopted by the
5 commission shall be written.

6 (h) To adopt standards and procedures for the evaluation of
7 service plans submitted pursuant to Section 56653 and the initiation
8 of a change of organization or reorganization pursuant to
9 subdivision (a).

10 (i) To make and enforce regulations for the orderly and fair
11 conduct of hearings by the commission.

12 (j) To incur usual and necessary expenses for the
13 accomplishment of its functions.

14 (k) To appoint and assign staff personnel and to employ or
15 contract for professional or consulting services to carry out and
16 effect the functions of the commission.

17 (l) To review the boundaries of the territory involved in any
18 proposal with respect to the definiteness and certainty of those
19 boundaries, the nonconformance of proposed boundaries with lines
20 of assessment or ownership, and other similar matters affecting
21 the proposed boundaries.

22 (m) To waive the restrictions of Section 56744 if it finds that
23 the application of the restrictions would be detrimental to the
24 orderly development of the community and that the area that would
25 be enclosed by the annexation or incorporation is so located that
26 it cannot reasonably be annexed to another city or incorporated as
27 a new city.

28 (n) To waive the application of Section 22613 of the Streets and
29 Highways Code if it finds the application would deprive an area
30 of a service needed to ensure the health, safety, or welfare of the
31 residents of the area and if it finds that the waiver would not affect
32 the ability of a city to provide any service. However, within 60
33 days of the inclusion of the territory within the city, the legislative
34 body may adopt a resolution nullifying the waiver.

35 (o) If the proposal includes the incorporation of a city, as defined
36 in Section 56043, or the formation of a district, as defined in
37 Section 2215 of the Revenue and Taxation Code, the commission
38 shall determine the property tax revenue to be exchanged by the
39 affected local agencies pursuant to Section 56810.

1 (p) To authorize a city or district to provide new or extended
2 services outside its jurisdictional boundaries pursuant to Section
3 56133.

4 (q) To enter into an agreement with the commission for an
5 adjoining county for the purpose of determining procedures for
6 the consideration of proposals that may affect the adjoining county
7 or where the jurisdiction of an affected agency crosses the boundary
8 of the adjoining county.

9 (r) *To review and approve or disapprove, at the commission's*
10 *discretion, the consolidation of territory within the jurisdiction of*
11 *a mutual water company formed pursuant to Chapter 2*
12 *(commencing with Section 14310) of Part 7 of Division 3 of Title*
13 *1 of the Corporations Code into the jurisdiction of a city as a*
14 *special district that operates a public water system, with the*
15 *consent of the respective city and mutual water company.*

16 SEC. 3. Section 56430 of the Government Code is amended
17 to read:

18 56430. (a) In order to prepare and to update spheres of
19 influence in accordance with Section 56425, the commission shall
20 conduct a service review of the municipal services provided in the
21 county or other appropriate area designated by the commission.
22 The commission shall include in the area designated for service
23 review the county, the region, the subregion, or any other
24 geographic area as is appropriate for an analysis of the service or
25 services to be reviewed, and shall prepare a written statement of
26 its determinations with respect to each of the following:

27 (1) Growth and population projections for the affected area.

28 (2) Present and planned capacity of public facilities and
29 adequacy of public services, including infrastructure needs or
30 deficiencies.

31 (3) Financial ability of agencies to provide services.

32 (4) Status of, and opportunities for, shared facilities.

33 (5) Accountability for community service needs, including
34 governmental structure and operational efficiencies.

35 (6) Any other matter related to effective or efficient service
36 delivery, as required by commission policy.

37 (b) In conducting a service review, the commission shall
38 comprehensively review all of the agencies that provide the
39 identified service or services within the designated geographic
40 area.

1 (c) *In conducting a service review, the commission may include*
2 *a review of whether the available drinking water sources within*
3 *the area of review comply with safe drinking water standards.*

4 ~~(e)~~

5 (d) The commission shall conduct a service review before, or
6 in conjunction with, but no later than the time it is considering an
7 action to establish a sphere of influence in accordance with Section
8 56425 or Section 56426.5 or to update a sphere of influence
9 pursuant to Section 56425.

10 SEC. 4. Section 116760.65 is added to the Health and Safety
11 Code, to read:

12 116760.65. (a) A public water system, as defined in Section
13 116275, that is a lead applicant for a project that may be funded
14 pursuant to this chapter may apply to the department for a letter
15 of no prejudice for the project or a component of the project. The
16 department may approve the letter of no prejudice for one or more
17 projects or project components that the department has determined
18 to be eligible for federal or state funding pursuant to established
19 funding priorities and has issued an invitation to apply for funding
20 from the Safe Drinking Water Revolving Fund. The letter of no
21 prejudice shall reference the project or component thereof and the
22 maximum amount of bond funding that may be allocated for that
23 project or project component.

24 (b) Expenditures for the costs, up to the amount set forth in the
25 letter of no prejudice, of a project or project component for which
26 a letter of no prejudice has been issued shall be eligible for
27 reimbursement from the Safe Drinking Water Revolving Fund if
28 all of the following apply:

29 (1) The project or project component for which the letter of no
30 prejudice was requested has commenced and expenditures on the
31 project or project component have been incurred by the local
32 agency.

33 (2) The expenditures made by the local agency are eligible for
34 reimbursement in accordance with state and federal laws and
35 procedures, and are permitted expenditures under the applicable
36 provisions of the federal Safe Drinking Water Act (42 U.S.C. Sec.
37 300f et seq.) or the California Safe Drinking Water Act. If
38 expenditures made are determined to be ineligible, then the state
39 has no obligation to reimburse for those expenditures.

1 (3) The public water system complies with all legal requirements
2 for the project, including the requirements of the California
3 Environmental Quality Act (Division 13 (commencing with Section
4 21000) of the Public Resources Code).

5 (4) The expenditures were incurred after the project or project
6 component was determined to be eligible for funding by the
7 department.

8 (5) There is in the Safe Drinking Water Revolving Fund an
9 amount sufficient to make the reimbursement payment. Nothing
10 in this section requires the fund to be funded at a particular time
11 or in a particular amount.

12 (c) The department and the public water system may enter into
13 an agreement or agreements governing reimbursement as described
14 in this section.

15 (d) Without limiting the foregoing, nothing in this section or in
16 a letter of no prejudice shall eliminate or modify any condition or
17 requirement for granting, allocating, or reallocating funds or any
18 other provision relating to loans, grants, allocations, or reallocations
19 in the California Safe Drinking Water Act or related statutes.

20 (e) For purposes of this section, “letter of no prejudice” means
21 an agreement between a public water system and the department
22 that makes eligible for future reimbursement from the Safe
23 Drinking Water Revolving Fund the expenditure of funds under
24 the control of the public water system, subject to availability of
25 bond funds, as provided in this section. The timing and final
26 amount of reimbursement is dependent on the terms of the
27 agreement and the availability of funds. The final amount of
28 reimbursement may be less than the amount stated in the letter of
29 no prejudice.